

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

June 29, 1995

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 94-0320

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

**SISTER MARY FELTEN,
and ST. MARY'S SCHOOL,**

Petitioners-Respondents,

v.

FRANK A. DOLEZAL,

Respondent-Appellant.

APPEAL from an order of the circuit court for Richland County: MICHAEL T. KIRCHMAN, Judge. *Dismissed.*

Before Dykman, Sundby, and Vergeront, JJ.

PER CURIAM. Frank A. Dolezal appeals from an order granting an injunction restraining him from all contact with Sister Mary Felten and St. Mary's School. The trial court found reasonable grounds to believe that Dolezal had harassed Felten and other school faculty and students in violation of

§ 947.013(1m)(b), STATS.,¹ and granted a harassment injunction effective for one year. Dolezal contends that the trial court failed to hold the injunction hearing within the statutory time requirement of seven days after the issuance of a temporary restraining order thereby violating § 813.125(3)(c), STATS.² He raises three other issues for appeal: (1) the trial court denied him due process of law; (2) the trial court denied him a fair and impartial hearing; and (3) the trial court abused its discretionary power. We conclude that because the injunction has expired, this appeal is moot. We therefore dismiss the appeal.

BACKGROUND

On December 14, 1993, Sister Mary Felten and St. Mary's School filed a petition requesting a temporary restraining order against Dolezal. Felten asserted that Dolezal had engaged in a pattern of conduct that was threatening to the faculty and students at the school and caused them to be fearful for their own physical safety. The petition noted three separate incidents in which Dolezal had harassed Felten and other faculty members and students.

¹ Section 947.013(1m)(b), STATS., provides:

Whoever, with intent to harass or intimidate another person, does any of the following is subject to a Class B forfeiture:

....

(b) Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

² Section 813.125(3)(c), STATS., provides:

The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (4). A judge or court commissioner shall hold a hearing on issuance of an injunction within 7 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties or extended once for 7 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence.

The trial court granted a temporary restraining order and informed both parties that a hearing was scheduled for December 20 on the matter. At the hearing, Judge Kent C. Houck disqualified himself because Dolezal had requested that he recuse himself from a divorce case in which Dolezal was a party. On December 22, 1993, Judge Michael T. Kirchman was assigned to hear the motion. After a hearing on the matter, the court found reasonable grounds to believe that Dolezal had violated § 947.013, STATS., and it granted a harassment injunction effective until January 20, 1995. Dolezal appeals.

MOOT QUESTION

We first address whether this appeal is moot. Mootness is a question of law which we review de novo. "[A] case is moot when the decision sought by the parties cannot have any practical legal effect upon a then existing controversy." *In re W.J.C.*, 124 Wis.2d 238, 239, 369 N.W.2d 162, 163 (Ct. App. 1985).

As a matter of judicial economy, we generally decline to review a case as soon as mootness is shown, regardless when or how it is shown. *Reserve Life Ins. Co. v. La Follette*, 108 Wis.2d 637, 643 n.4, 323 N.W.2d 173, 176 (Ct. App. 1982). We may, however, decide moot appeals on the merits where the constitutionality of a statute is involved or where the precise situation under consideration is likely to arise again such that a definitive decision is essential to guide trial courts. *DeLaMatter v. DeLaMatter*, 151 Wis.2d 576, 591-92, 445 N.W.2d 676, 683 (Ct. App. 1989). We may also review a moot appeal if the issue is one of great importance and evades review because the appellate process cannot be completed in time. *In re Shirley J.C.*, 172 Wis.2d 371, 375, 493 N.W.2d 382, 384 (Ct. App. 1992).

The one-year injunction expired January 20, 1995. Nothing this court can do will affect it. Additionally, this appeal does not present any of the factors which might persuade us that a decision on the merits is appropriate. Accordingly, we conclude that the appeal is moot.

By the Court. – Order dismissed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.